

Settling for Foreclosure?
The Mortgage
Foreclosure Settlement
Conference

Indiana's mortgage foreclosure rate is among the highest in the country, largely due to the decline of the automotive and manufacturing industries. In 2008, the state saw 45,934 foreclosures – a more than 50 percent increase since 2003. In January 2009, Chief Justice Randall T. Shepard addressed this crisis, vowing to train more professionals than any other state on how to deal with foreclosure cases. The “Back Home In Indiana – Guiding Homeowners Through Foreclosure” training program began in March 2009 with sessions all across the state, and in October 2009, this goal was reached – more than 1,100 attorneys, judges, and mediators received foreclosure prevention training.

State law now requires a creditor to notify a homeowner facing foreclosure of his or her right to participate in a settlement conference. Indiana Code 32-30-10.5 *et seq.* levies a \$50.00 filing fee on all mortgage foreclosure cases filed after July 1, 2009, and requires that the homeowner be notified of his or her right to request a settlement conference with the lender. A portion of this filing fee is remitted to the Indiana Supreme Court to conduct training and hire coordinators to organize and assist with these settlement conferences.

As of early 2010, very few homeowners had taken advantage of the settlement conference provision. Many individuals who have already received foreclosure documents simply don't open or read any mail they receive from the lender. Others don't know precisely what a settlement conference entails or believe that they need to hire an attorney and are unable to afford one.

After discussing the situation with a number of trial judges, the Division of State Court Administration has partnered with the Indiana Housing and Community Development Authority (IHCDA) to create a system for coordinating all settlement conferences on a county or district-wide basis.

This program was launched on a pilot basis in January 2010 in Allen, Marion, and St. Joseph counties. A project manager oversees local logistical coordinators, who coordinate with pro bono attorneys, facilitators, homeowners, and lenders to schedule and take part in settlement conferences.

Although this program is still very new, it appears to be having some success when compared to settlement conference rates in non-pilot counties. According to Delaware County Judge Marianne Vorhees, of the 295 foreclosures filed in Delaware Circuit Court from July 1 to December 31, 2009, only 21 borrowers – or 7 percent – had requested a settlement conference. As of February 16, 2010, 5 of these cases were successful (meaning that the borrowers remained in the home), while 6 were unsuccessful, 1 borrower did not appear, 3 were still negotiating with the lenders, and 5 of the conferences had not yet occurred.

In contrast, the settlement conference model implemented by Judge Nancy Boyer of Allen Superior Court has resulted in at least 20 settlement conferences requested in less than 2 weeks. Under this structure, Judge Boyer collects all mortgage foreclosure filings dating back to January 1, 2010, and sends out an “Order For Telephone Conference” in each case, requiring the borrowers and lenders to call into the court on a certain date and time and speak with a facilitator. During these telephone conferences, the facilitator explains to the borrower what a settlement conference involves, and asks whether the borrower would like to request one. If the borrower declines, the foreclosure case proceeds; if the borrower requests a conference, the facilitator sets a time and date for the settlement conference and determines what documents each party must provide in order to negotiate. A second order confirming the conference date and describing all required documents is then issued. The first group of these telephone conferences took place on February 11, 2010; by February 23, 20 of the 24 borrowers who took part in a telephone conference had requested a settlement conference.

This data seems to show the importance of an “opt-out”, rather than “opt-in” model; this ensures that the maximum number of borrowers are reached, and that those borrowers who are contacted may make an informed decision whether or not they would benefit from a settlement conference.

Attorneys and mediators who have received training through the “Back Home In Indiana” program are encouraged to take part in this project. Through funding from the IHCD, pro bono attorneys are reimbursed up to \$25.00 per conference for reasonable expenses (parking, meals, and office supplies, for example), while facilitators receive \$150.00 per every four settlement conferences conducted.

Although Allen County is the only court system currently operating under this pilot project, several judges in St. Joseph, Marion, and Monroe counties are working hard to get their settlement conference programs up and running by early summer. If the projects in these counties are successful, they will be implemented on a state-wide basis beginning in early 2011.

Any attorneys, judges, or mediators who wish to assist with this project should contact David Remondini, Chief Deputy Executive Director of the Division of State Court Administration, dremondi@courts.state.in.us, or Elizabeth Daulton, Project Manager of the Mortgage Foreclosure Trial Court Assistance Project, edaulton@courts.state.in.us. More information can be found at the Mortgage Foreclosure Task Force website, www.courts.in.gov/home.



Indiana Supreme Court
Division of State Court Administration
Mortgage Foreclosure Settlement Conference
DATA COLLECTION FORM
(TO BE SUBMITTED WITHIN 30 DAYS OF SETTLEMENT CONFERENCE)

1. Name and Address of Borrower:

2. Name and Address of Lender:

2. Today's Date:

3. Date Settlement Conference Was Scheduled:

Date Held:

4. Parties Present (List Name + Title/Role) (Include Facilitator and Attorney(s), if Applicable):

5. Were all parties prepared for this conference?

Y ☐ N ☐

a. If no, please explain:

6. Was the borrower assisted or represented by a pro bono attorney, housing counselor, or other individual? Y ☐ N ☐

a. If yes, by whom?

7. Result Achieved At (Or Within 48 Hours Of) Settlement Conference

STAYED-IN-HOME WORKOUTS

_____ Adjustment of Rate and/or Terms (briefly describe changes):

_____ Kept Original Terms

_____ Refinanced

_____ Received 2nd Mortgage

_____ Forbearance/Repayment Plan

_____ Partial Claim Agreement

_____ Loan Reinstated

OTHER WORKOUTS

_____ Short Sale

- ____ Deed In Lieu of Foreclosure
____ Leaseback
____ Other (please describe):

NO WORKOUT REACHED

- ____ Foreclosure
____ Bankruptcy
____ Other (please describe):

8. Is Follow-Up Work Needed? Y ☐ N ☐ Don't Know ☐

a. If Yes, What Work Is Needed?

b. Who Will Perform Follow-Up Work?

Certification of Facilitator/Logistical Coordinator:

I certify the above to be accurate to the best of my knowledge.

(Type or print name)

Signature

REMIT WITHIN 30 DAYS OF SETTLEMENT CONFERENCE to:

Elizabeth Daulton, Project Manager
Division of State Court Administration
30 S. Meridian St., Suite 500
Indianapolis, IN 46204
Phone: 317.234.7155
Fax: 317.233.6586
Email: edaulton@courts.state.in.us

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

IN THE ALLEN SUPERIOR COURT

Plaintiff,) CAUSE NO. 02D01-
)
)
vs.) ORDER AFTER TELEPHONE CONFERENCE
)
Defendant.)

A Telephone Conference was scheduled for _____, 2010, before Facilitator _____, pursuant to the Court's Order of _____20__.

Plaintiff, _____, appeared by telephone. Defendant(s) _____ appeared by telephone. Facilitator _____ appeared by telephone.

_____ failed to appear.

The Telephone Conference was conducted.

[Borrower did not request a Settlement Conference. Plaintiff is permitted to proceed as otherwise allowed by law.]

OR

[Borrower requested a Settlement Conference, which is scheduled for _____ at _____ m. in the Allen County Courthouse, Room 107. The parties are ORDERED to comply with all requests made by the Facilitator.]

The trial judge of record hereby certifies that the telephone conference occurred.

SO ORDERED: _____2010.

NANCY ESHCOFF BOYER, Judge
Allen Superior Court

MANNER OF NOTICE:
(X) WITH COPY PURSUANT TO T.R. 72 TO BE SERVED BY:
X COURT _____ CLERK _____ OTHER:
PROOF OF NOTICE UNDER TRIAL RULE 72(D)

A copy of the entry was served either by mail to the address of record, deposited in the attorney's distribution box, or personally distributed to the following persons:

Court Packet – 2

DATE OF NOTICE: April 9, 2010

INITIALS OF PERSON WHO NOTIFIED PARTIES: ifs COURT _____ CLERK _____ OTHER _____

Forms from St. Joseph County

TEMPORARY ORDER
OF THE ST. JOSEPH CIRCUIT AND SUPERIOR COURTS
IN FURTHERANCE OF THE PURPOSES UNDERLYING
SENATE ENROLLED ACT 492 (2009)

Effective April 15, 2010, Plaintiffs filing new mortgage foreclosure actions in the St. Joseph Circuit Court or St. Joseph Superior Court will be required to provide to the Clerk of the Court:

- One (1) additional stamped, addressed envelope, with no return address information, for each individual defendant (but not including any corporation or entity) named as a defendant,

AND

- A service list, including the name, address and, if available, the telephone number for each defendant.

This policy is adopted by the St. Joseph Circuit Court and St. Joseph Superior Court pursuant to an initiative of the Indiana Supreme Court and Indiana Housing and Community Development Authority to train and recruit volunteer lawyers to assist homeowners facing foreclosure and in furtherance of the purposes underlying Senate Enrolled Act No. 492.

Failure to comply with this policy will delay the processing of the case by the Clerk until compliance is achieved.

All MF actions filed on or after April 15, 2010 in the St. Joseph Circuit Court or the St. Joseph Superior Court, in which a request for settlement conference is made pursuant to I.C. 32-30-10.5-10, shall be the subject of an administrative transfer to the St. Joseph Superior Court, Mishawaka Division, for purposes of the scheduling and conduct of such settlement conference.

Unless extended by the St. Joseph Circuit Court and/or St. Joseph Superior Court, this policy expires December 31, 2012.

Signed the date filemarked hereon.

Michael G. Gotsch, Judge
St. Joseph Circuit Court

Michael P. Scopelitis, Presiding Judge
St. Joseph Superior Court

**NOTICE TO HOMEOWNERS
FACING FORECLOSURE PROCEEDINGS**

If you are a homeowner facing the foreclosure of the mortgage on your residence, you may be entitled to participate in a settlement conference with your lender or its representative in order to discuss options that may be available to you to prevent the foreclosure of your mortgage. Additionally, the Court may be able to appoint a facilitator to supervise the settlement conference, and may be able to appoint an attorney to represent you. There are no costs to the homeowner for participating in a settlement conference.

You must act promptly. If you want to request a settlement conference in the mortgage foreclosure proceeding that is currently pending, please complete the form, below, and mail it to the following address: St. Joseph Superior Court, 219 Lincolnway West, Mishawaka, IN 46544, Attention: Mortgage Foreclosure Coordinator.

Michael G. Gotsch
Judge, St. Joseph Circuit Court

Michael P. Scopelitis
Presiding Judge
St. Joseph Superior Court

Rita Glenn
Clerk

REQUEST FOR SETTLEMENT CONFERENCE

Name: _____

Address: _____

Telephone (*required*): _____

Cause No. _____

Is the property that is being foreclosed your residence? ____ Yes ____ No

If the property is your residence is it: _____ A property you are purchasing

_____ A property which you are renting

Return to: St. Joseph Superior Court, 219 Lincolnway West, Mishawaka, IN 46544, Attention: Mortgage Foreclosure Coordinator

***IF YOU HAVE PREVIOUSLY ASKED FOR A SETTLEMENT CONFERENCE USING
THE "GET HOPE. GET HELP" FORM THAT YOU RECEIVED WITH THE SUMMONS
AND COMPLAINT, YOU DO NOT NEED TO SUBMIT THIS REQUEST FORM***

NOTICE OF NON-COMPLIANCE WITH POLICY
GOVERNING THE FILING OF MORTGAGE FORECLOSURE
ACTIONS IN THE ST. JOSEPH CIRCUIT AND SUPERIOR COURTS

Effective April 15, 2010, Plaintiffs filing new mortgage foreclosure action in the St. Joseph Circuit Court or St. Joseph Superior Court are required to provide

One (1) additional stamped, addressed envelope for each individual defendant (but not including any corporation or entity) named as a defendant,

AND

A service list, including the name, address and, if available, the telephone number for each defendant. This policy has been adopted by the St. Joseph Circuit Court and St. Joseph Superior Courts pursuant to an initiative of the Indiana Supreme Court and Indiana Housing and Community Development Authority to train and recruit volunteer lawyers to assist homeowners facing foreclosure and in furtherance of the purposes underlying Senate Enrolled Act No. 492 (2009). Failure to comply with this policy will result in the Clerk rejecting your case for filing.

The mortgage foreclosure action you recently filed: Plaintiff _____ v. Defendant _____, which has been assigned the following cause number: _____ failed to include the service list and additional envelopes required under this policy. ***The case has been accepted for filing, but will not be processed until you have complied with this policy. Please submit the required envelopes and service list to the following office of the St. Joseph County Clerk:***

St. Joseph Superior / Circuit Clerk
101 S. Main Street
South Bend, IN 46601

St. Joseph Superior / Circuit Clerk
219 Lincolnway West
Mishawaka, IN 46544

Thank you for your anticipated cooperation.

Sincerely,

Rita Glenn
Clerk, St. Joseph County

STATE OF INDIANA)
)SS:
ST. JOSEPH COUNTY)

IN THE ST. JOSEPH CIRCUIT COURT

 Plaintiff
v

et al,
 Defendants

CAUSE NO. 71C01-_____-MF-_____

ORDER FOR ADMINISTRATIVE TRANSFER

The Defendant having made a request for the conduct of a settlement conference pursuant to I.C. 32-30-10.5-10, the above-captioned case is transferred, for administrative purposes only, to the St. Joseph Superior Court, Mishawaka Division, for the scheduling and conduct of such hearing.

So ordered this _____ day of _____, 20_____.

Michael G. Gotsch
St. Joseph Circuit Court

IN THE ST. JOSEPH SUPERIOR COURT

CAUSE NO. 71D0 - -MF-

, Judge
St. Joseph Superior Court

STATE OF INDIANA)
)SS:
ST. JOSEPH COUNTY)

IN THE ST. JOSEPH CIRCUIT/SUPERIOR COURT

)
)
Plaintiff)
)
v)
)

)
)
et al,)
)
)
Defendants)

CAUSE NO. 71____-____-MF-____

ORDER FOR TELEPHONE CONFERENCE

This cause has been assigned by the St. Joseph Superior Court, Mishawaka Division, to
_____, as Facilitator in this matter. The parties and/or their
attorneys are ordered to a Telephone Conference on _____.

Counsel for Plaintiff is ordered to place the telephone conference call. The names and
telephone numbers of the parties are attached hereto.

At the Telephone Conference, the Conference Coordinator, will:

- X Confirm whether the Borrower wishes to have a Settlement Conference;
- X Schedule a Settlement Conference to be held at the St. Joseph Superior Court, Mishawaka Division, by ORDER of the Court;
- X Obtain from Plaintiff's Attorney the name, telephone number, and fax number of the servicer assigned to the loan;
- X Require the Borrower to provide any requested information to the Facilitator at least two weeks before the scheduled Settlement Conference;
- X Require the attendance (either by telephone or in person) of any additional entities/participants the Facilitator deems necessary at the Settlement Conference;
- X Require any participant at the Settlement Conference to have full settlement authority.
- X Require the Lender to provide a brief description of any and all loan programs generally available to qualified borrowers.
- X Confirm whether Borrower is or should be working with a credit counselor.

All attorneys, parties, and participants shall comply with all requests made by the Facilitator.

The Facilitator shall file a report with the Court a proposed form of order not later than 21 days from the date of the Telephone Conference informing the Court of the status of the foreclosure proceeding, including whether a Settlement Conference was requested; who attended the Telephone Conference; the date of the Settlement Conference; and any requests made by the Facilitator.

So ordered this ____ day of _____, 2010.

Jenny Pitts Manier
Judge, St. Joseph Superior Court

Checklist: Questions to Ask Borrower Prior to Settlement Conference:

1. Confirm who is in attendance:

a. Plaintiff's counsel:

X Name:
X Address
X Telephone
X Fax

b. Facilitator:

c. Defendant/Borrower:

X Name
X Address
X Telephone

d. Others

2. Secure information concerning loan servicer:

X Name of Servicer
X Name of contact
X Address
X Telephone
X Fax

3. Does Borrower Desire a Settlement Conference? ____ Y ____ N

4. Does Borrower Qualify for a Settlement Conference?

X Is the loan being foreclosed a first loan? ____ Y ____ N
X Is this loan secured by your primary residence? ____ Y ____ N
X Does your primary residence also serve as a rental property or business? ____ Y ____ N
X Have you made any alternative repayment plans or agreements with the lender since July 1, 2009? ____ Y ____ N
X If so, have you defaulted on this repayment plan/agreement? (Answer must be N to qualify)

5. Is the Borrower currently in the process of declaring bankruptcy? ____ Y ____ N

6. The Settlement Conference is scheduled for _____, 2010, at _____ .M. It will take place here – the St. Joseph Superior Court, 219 Lincolnway West, Mishawaka, IN 46544. All those present at this telephone conference will be ordered to be present in person unless they secure the Court's consent to their appearance by telephone. The parties will be ordered to

have present at the Settlement Conference all persons with settlement authority.

7. I need the following information from the Borrower:

- X Have you been in contact with a housing counselor?
- X If Yes:
 - X Counselor's name and contact info: (e.g. phone, fax)
 - X Approximate date of first contact:
 - X Are you still in contact with counselor?
- X Have you been in contact with a pro bono attorney?
- X If Yes:
 - X Attorney's name
 - X Contact information
 - X Approximate date of first contact
 - X Are you still receiving legal assistance from this attorney (or another attorney)?
 - X If No: Would you like to request that a pro bono attorney be assigned to your case? No guarantee
 - X If yes – Contact VLN at 277-0075 or at volunteerlawyernetwork.org

8. I have some questions for the Plaintiff's lawyer:

- X What information do you need from the Borrower?
 - X
 - X
 - X
 - X
- X Are there other lienholders whose presence is essential to the possibility of settlement?
 - X
 - X
 - X
 - X
 - X

9. Will the Facilitator please advise me whether the Plaintiff will need to provide any of the following:

- X A copy of the original note and mortgage?
- X A payment record substantiating the Borrower's default?
- X An itemization of all amounts claimed by the creditor as being owed on the mortgage?
- X Copies of any Pooling Servicing Arrangements (PSA) and/or any other documents or writings limiting the Plaintiff's ability to modify interest rates

and/or principal owing?

- X Is this loan insured through the FHA? If so, should the Plaintiff be required to provide references to regulations limiting the lender's ability to negotiate principal and/or interest; regulations and/or policies regarding deficiency judgments?
- X Is Plaintiff's client is a signatory to the HAMP program? If so, should Plaintiff be required to provide copies of any and all HAMP notifications and the lender's/servicer's NPV calculations?
- X A description of any and all of Plaintiff's programs and/or loan modification programs generally available to any qualified borrower?

IN THE ST. JOSEPH CIRCUIT/SUPERIOR COURT

CAUSE NO. 71 - -MF-

_____ Borrower requested a Settlement Conference, which is scheduled for the _____
day of _____ at _____ .M. in the St. Joseph Superior Court, Mishawaka

Division, 219 Lincolnway West, Mishawaka, IN. The parties are ORDERED to comply with all requests made by the Facilitator.

The parties are ORDERED to comply with the checked items on attached “Exhibit A,” and to complete and bring to the Settlement Conference the attached sheet captioned “To Be Filled out by Borrower.”

All parties and any other entity required to resolve the matter are ORDERED to appear at the Settlement Conference in person, unless excused, or permitted to appear by telephone, by Court Order. Failure of any party to have present all persons with requisite settlement authority shall be subject to the imposition of sanctions. Any such sanction issued against Plaintiff shall not be deemed an expense which Plaintiff may assign to Borrower under the terms of any agreement between Plaintiff and Borrower.

All parties are notified that the Facilitator, **only**, is authorized to file reports on the results of the Settlement Conference. No other reports will be accepted.

The trial judge of record hereby certifies that the telephone conference occurred.

So ordered this _____ day of _____, 2010.

Jenny Pitts Manier
Judge, St. Joseph Superior Court

EXHIBIT A

_____ **Defendant/Borrower is ordered to provide to** _____
(servicer/loss mitigator) at _____
(address/fax/e-mail) the following by the _____ day of _____, 2010:

- _____ 1) All financial information reasonably required to determine borrower's eligibility for any and all loan refinancing/restructuring programs
- _____ 2) Pay stubs; income tax returns; W-2 forms; budget of monthly expenses (enclosed); Hardship Letter (composed by the Borrower)

_____ **Plaintiff/Lender is ordered to provide to the Facilitator the following by the** _____ day of _____, 2010:

- _____ 1) A copy of the original note and mortgage;
- _____ 2) A payment record substantiating the Borrower's default;
- _____ 3) An itemization of all amounts claimed by the creditor as being owed on the mortgage;
- _____ 4) Copies of any Pooling Servicing Arrangements (PSA) and/or any other documents or writings limiting the Plaintiff's ability to modify interest rates and/or principal owing;
- _____ 5) If this is a loan insured through FHA, references to regulations limiting the lender's ability to negotiate principal and/or interest; regulations and/or policies regarding deficiency judgments;
- _____ 6) If Plaintiff's client is a signatory to the HAMP program, copies of any and all HAMP notifications and the lender's/servicer's NPV calculations;
- _____ 7) A description of any and all of Plaintiff's programs and/or loan modification programs generally available to any qualified borrower;

_____ **The following additional conditions apply:**

- _____ 1) Other entities and/or lien holders, whose consent in the primary mortgagee's opinion would be necessary in order to effectuate a settlement, namely

_____ are Ordered to attend the Settlement Conference.

_____ Other requirements:

--

Forms from Allen County

ORDER #1

**CIRCUIT AND SUPERIOR COURTS
38TH JUDICIAL DISTRICT
ALLEN COUNTY, INDIANA**

,
Plaintiff,

vs.

,
Defendant.

) **CAUSE NUMBER: 02D01-**
)
)
)
)
)
)

ORDER FOR TELEPHONE CONFERENCE

This cause has been assigned by the Allen Superior Court to _____, as Facilitator in this matter.

The parties and/or their attorneys are ORDERED to a Telephone Conference on _____.

The parties or their attorneys to this action are hereby directed to attend this Conference by telephone. The parties are ORDERED to **CALL** _____ on the Telephone Conference date at the following number: **260-** _____. **(Do not come to the Courthouse for this Telephone Conference.)**

At the Telephone Conference, the Facilitator will:

- A. Ask if the Borrower wishes to have a Settlement Conference;
- B. Schedule a Settlement Conference to be held at the Allen County Courthouse by ORDER of the Court;
- C. Obtain from Plaintiff's Attorney the name, telephone number, and fax number of the servicer assigned to the loan;
- D. Require the Borrower to provide any requested information to the Facilitator at least two weeks before the scheduled Settlement Conference;
- E. Require the attendance (either by telephone or in person) of any additional entities/participants the Facilitator deems necessary at the Settlement Conference;
- F. Require any participant at the Settlement Conference to have full settlement authority.
- G. Require the Lender to provide a brief description of any and all loan programs generally available to qualified borrowers.

All attorneys, parties, and participants shall comply with all requests made by the Facilitator.

The Facilitator shall file a report with the Court not later than 21 days from the date of the Telephone Conference informing the Court of the status of the foreclosure proceeding, including whether a Settlement Conference was requested; who attended the Telephone Conference; the date of the Settlement Conference; and any requests made by the Facilitator.

SO ORDERED: _____

**NANCY ESHCOFF BOYER, JUDGE
ALLEN SUPERIOR COURT**

MANNER OF NOTICE:

(X) WITH COPY PURSUANT TO T.R. 72 TO BE SERVED BY:

X COURT _____ CLERK _____ OTHER:

PROOF OF NOTICE UNDER TRIAL RULE 72(D)

A copy of the entry was served either by mail to the address of record, deposited in the attorney's distribution box, or personally distributed to the following persons:

Court Packet – 2

DATE OF NOTICE: April 9, 2010

INITIALS OF PERSON WHO NOTIFIED PARTIES: das COURT _____ CLERK _____ OTHER _____

ORDER #2

STATE OF INDIANA)	IN THE ALLEN SUPERIOR COURT
) SS:	
COUNTY OF ALLEN)	
)	CAUSE NO. 02D01-
Plaintiff,)	
)	
vs.)	
)	
Defendant.)	

ORDER AFTER TELEPHONE CONFERENCE

A Telephone Conference was scheduled for _____, 2010, before Facilitator _____, pursuant to the Court's Order of _____ 2010.

Plaintiff, _____, appeared by telephone. Defendant(s) _____ appeared by telephone. Facilitator _____ appeared by telephone.

_____ failed to appear.

The Telephone Conference was conducted.

[Borrower did not request a Settlement Conference. Plaintiff is permitted to proceed as otherwise allowed by law.]

OR

[Borrower requested a Settlement Conference, which is scheduled for _____ at _____ m. in the Allen County Courthouse, Room 107. The parties are ORDERED to comply with all requests made by the Facilitator and to appear in person at the Settlement Conference.]

The parties are ORDERED to comply with all checked boxes on attached "Exhibit A," and to complete and bring with you to the Settlement Conference the enclosed sheet titled "BUDGET."

All parties and any other entities required to resolve this matter are ORDERED to appear at the Settlement Conference in person, unless excused by Court Order. Failure of any party to have present all persons with requisite settlement authority shall be subject to the imposition of sanctions. Any such sanction issued against Plaintiff shall not be deemed an expense which Plaintiff may assign to Borrower under the terms of any agreement between Plaintiff and Borrower.

All parties are notified that the Facilitator **only** is authorized to file reports of the results of the Settlement Conference. No other reports will be accepted.

The trial judge of record hereby certifies that the telephone conference occurred.

SO ORDERED: _____

NANCY ESHCOFF BOYER, JUDGE
ALLEN SUPERIOR COURT

MANNER OF NOTICE:
(X) WITH COPY PURSUANT TO T.R. 72 TO BE SERVED BY:
X COURT CLERK OTHER:
PROOF OF NOTICE UNDER TRIAL RULE 72(D)

A copy of the entry was served either by mail to the address of record, deposited in the attorney's distribution box, or personally distributed to the following persons:

Court Packet – 2

DATE OF NOTICE: April 9, 2010

INITIALS OF PERSON WHO NOTIFIED PARTIES: das COURT CLERK OTHER
(#2 Order After Telephone Conference 3 pagees.doc)

EXHIBIT "A"

☐ Defendant/Borrower is ordered to provide to _____ (servicer/loss mitigator) at _____ (address/fax number/e-mail) the following:

- ☐ 1) All financial information reasonably required to determine borrower's eligibility for any and all loan refinancing/restructuring programs
- ☐ 2) Pay stubs; income tax returns; W-2 forms; budget of monthly expenses (enclosed); Hardship Letter (composed by the borrower)

☐ Plaintiff/Lender is ordered to provide to the Facilitator the following by _____:

- ☐ 1) Copies of any Pooling Servicing Arrangements (PSA) and/or any other documents or writings limiting the Plaintiff's ability to modify interest rates and/or principal owing;
- ☐ 2) If this is a loan insured through FHA, references to regulations limiting the lender's ability to negotiate principal and/or interest; regulations and/or policies regarding deficiency judgments;
- ☐ 3) If Plaintiff's client is a signatory to the HAMP program, copies of any and all HAMP notifications and the lender's/servicer's NPV calculations;
- ☐ 4) A description of any and all of Plaintiff's programs and/or loan modification programs generally available to any qualified borrower;

☐ The following additional entities are ORDERED to attend the Settlement Conference:

- ☐ Other entities and/or lien holders, whose consent in the primary mortgagee's opinion would be necessary in order to effectuate a settlement, namely

_____.

- ☐ Plaintiff has designated _____ as the servicer assigned to this case. _____ is ORDERED, as the servicer assigned to this case, to attend the Settlement Conference by telephone. This file may not be assigned or handled by anyone other than the servicer designated in this ORDER without further ORDER of this Court. Plaintiff represents the designated servicer will be available at _____ (telephone number) and _____ (fax number) for all purposes, including all future contact by the Defendant.

☐ Other requirements:

BUDGET

**TO BE FILLED OUT BY THE BORROWERS
INCOME, EXPENSES, ASSETS, LIABILITIES &
EMPLOYMENT HISTORY - EXHIBIT A**

EMPLOYMENT HISTORY (attach pay stubs)			
Please account for all employment and/or unemployment within the last five (5) years beginning with your current or most recent employer. Attach an additional sheet if extra space is needed.			
Employer's Name, Address & Phone #	Employment Dates?	Reason for Unemployment	Unemployment Dates?
Employer's Name, Address & Phone #	Employment Dates?	Reason for Unemployment	Unemployment Dates?
Employer's Name, Address & Phone #	Employment Dates?	Reason for Unemployment	Unemployment Dates?

MONTHLY INCOME		MONTHLY EXPENSES	
Wages	\$	Other Mortgages / Liens	\$
Unemployment Income	\$	Auto Expenses / Insurance	\$
Child Support/Alimony	\$	Credit Cards / Installment Loans(s)	\$
Disability Income	\$	Health Insurance (not withheld in pay)	\$
Rents Received	\$	Medical (Co-pays and Rx)	\$
Other	\$	Child Care / Support / Alimony	\$
Less Federal and State Tax, FICA	\$	Food / Spending Money	\$
Less Other Deductions (401K, etc.)	\$	Water / Sewer / Utilities / Phone	\$
		Other Monthly Expenses	\$
Total (Net Income)	\$	Total	\$

ASSETS		LIABILITIES	
Type	Estimated Value	Type	Estimated Value
Checking Account(s)	\$	Secured Liabilities #	\$
Saving / Money Market	\$	Unsecured Liabilities #	\$
Stocks / Bonds / CDs	\$	Other Liabilities	\$
IRA / Keogh Accounts / 401K	\$		\$
Home	\$		\$
Other Real Estate #	\$		\$
Cars #	\$		\$
Other Assets	\$		\$
			\$
Total	\$	Total	\$

I affirm, under penalties of perjury, that the foregoing representations are a true, accurate, full and complete reporting of all assets that I claim or may claim, and of all of my liabilities.

Signature Borrower

Signature Co-Borrower

Dated

Dated

ORDER #3

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

IN THE ALLEN SUPERIOR COURT

Plaintiff,

vs.

Defendant.

) CAUSE NO. 02D01-
)
)
)
)
)
)

ORDER OR JUDGMENT OF THE COURT

A Mortgage Foreclosure Settlement Conference was scheduled on _____, pursuant to the Court's Order of _____.

Attorney _____ appeared on behalf of Plaintiff. Defendant(s) _____ appeared in person. Facilitator _____ appeared in person.

- ☐ The Settlement Conference was conducted.
- ☐ The Settlement Conference was not conducted.

The following occurred:

☐ The facilitator requested certain information or actions be taken prior to the Settlement Conference. _____ and/or _____ failed to comply in the following ways:

- ☐ For cause shown, Facilitator requests the Settlement Conference be reconvened.
- ☐ The Settlement Conference is reset to _____. All parties are ORDERED to appear in person unless excused by Court Order.
- ☐ Settlement was reached. Plaintiff is ORDERED to file a signed "Foreclosure Prevention Agreement" and either a "Motion to Stay Proceedings" or a "Motion to Dismiss Proceedings" by _____.
- ☐ No workout was reached. Plaintiff is permitted to proceed as otherwise allowed by law.
- ☐ Other:

The trial judge of record hereby certifies the Settlement Conference occurred.

SO ORDERED: _____

NANCY ESHCOFF BOYER, JUDGE
ALLEN SUPERIOR COURT

MANNER OF NOTICE:
(X) WITH COPY PURSUANT TO T.R. 72 TO BE SERVED BY:
X COURT _____ CLERK _____ OTHER:
PROOF OF NOTICE UNDER TRIAL RULE 72(D)

A copy of the entry was served either by mail to the address of record, deposited in the attorney's distribution box, or personally distributed to the following persons:

Court Packet – 2

DATE OF NOTICE: April 9, 2010

INITIALS OF PERSON WHO NOTIFIED PARTIES: das COURT____ CLERK____ OTHER____
(Order #3.doc)

**CIRCUIT AND SUPERIOR COURTS
38TH JUDICIAL DISTRICT
ALLEN COUNTY, INDIANA**

WELLS FARGO BANK, N.A.,)	CAUSE NUMBER: 02D01-0903-MF-237
Plaintiff,)	
)	
vs.)	
ROBERT BLAINE et. al.)	
Defendant(s).)	

Plaintiff has filed a Settlement Conference Status Report ("Report) indicating a foreclosure prevention agreement ("Agreement") has been reached. The Report states that pursuant to the agreement of the parties, the Agreement will not be filed with the Court.

As required by statute, the Agreement is to be filed with the Court. Pursuant to I.C. § 32-30-10.5-10(e): "Not later than seven (7) business days after the signing of the foreclosure prevention agreement, the creditor **SHALL** file with the court a copy of the signed agreement." (emphasis added). The statute does not allow for the filing requirement to be waived by agreement of the parties.

Plaintiff is ordered to file a copy of the Agreement with the Court on or before December 16, 2009. After the filing of the Agreement, pursuant to I.C. § 32-30-10.5-10(e), this cause will be stayed as long as the Defendant complies with the terms of the Agreement.

DATED: December 2, 2009

NANCY ESHCOFF BOYER, JUDGE
ALLEN SUPERIOR COURT

NOTICE TO GIVEN BY:
 X COURT CLERK OTHER:
PROOF OF NOTICE UNDER TRIAL RULE 72(D)

A copy of this entry was served, either by mail to the address of record, deposited in the Attorney's distribution box, or personally distributed to the persons and/or filed as listed below:

Attorney Brian Berger
8050 Cleveland Place
Merrillville, IN 46410

Robert Blaine
1915 Grafton Place
Fort Wayne, IN 46808

Court Packet - 2

DATE OF NOTICE: November 25, 2009

INITIALS OF PERSON WHO NOTIFIED PARTIES: CTG COURT CLERK OTH

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

IN THE ALLEN SUPERIOR COURT

US BANK NA,
Plaintiff,

CAUSE NO. 02D01-1002-MF-129

vs.

JOSEPH R. FLEMING AND NICHOLE FLEMING,
Defendants.

NOTICE TO COMPLY WITH NOTICE REQUIREMENT

1. On December 17, 2009, Plaintiff filed its Complaint for Foreclosure of Mortgage.
2. Plaintiff alleges in Paragraph 6 of its Complaint that it is not required to send the notices as described in I.C. §32-30-10.5-8(a) and (c) because "the loan has been subject to a prior foreclosure prevention agreement under the chapter."
3. The Court has examined the Loan Modification Agreement attached as Exhibit "C" to Plaintiff's Complaint. The Agreement is dated April 28, 2008.
4. The Mortgage Prevention Agreements for Residential Mortgages Act, I.C. §32-30-10.5 *et seq.* was enacted by the Indiana State Legislature in 2009, becoming effective on July 1, 2009.
5. As a result, Exhibit "C" is not a prior foreclosure prevention agreement "under this chapter" pursuant to I.C. §32-30-10.5-8(e)(2).
6. Defendants are entitled to receive notice of their right to participate in a Settlement Conference.

(Court is to Notify.)

Dated: March 5, 2010

NANCY ESHCOFF BOYER, Judge
Allen Superior Court

MANNER OF NOTICE:
(X) WITH COPY PURSUANT TO T.R. 72 TO BE SERVED BY:
X COURT _____ CLERK _____ OTHER:
PROOF OF NOTICE UNDER TRIAL RULE 72(D)

A copy of the entry was served either by mail to the address of record, deposited in the attorney's distribution box, or personally distributed to the following persons:

Attorneys C. Doyle, J. Galliher, J. Shoemaker, B. Potter
41 E. Washington St., Suite 400
Indianapolis, IN 46204

Joseph and Nichole Fleming
5320 Lonesome Oak Ct.
Fort Wayne, IN 46845

Court Packet - 2

DATE OF NOTICE: April 9, 2010

INITIALS OF PERSON WHO NOTIFIED PARTIES: jfs COURT _____ CLERK _____ OTHER _____